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IN THE FEDERAL DISTRICT COURT FOR THE WESTERN DISTRICT  
OF PENNSYLVANIA

**FILED**

JACQUELYN B. N'JAI

Plaintiff

JAN 04 2019

CLERK U.S. DISTRICT COURT  
WEST. DIST. OF PENNSYLVANIA

V.

CASE NO.: 18-CV-1616

**SOCIAL SECURITY ADMINISTRATION COMMISSIONER;  
US SOCIAL SECURITY ADMINISTRATION (FTCA ONLY)**

Defendants

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**AMENDED COMPLAINT IN RESPONSE TO AND AS REQUIRED BY  
THE HONORABLE JUDGE NORA BARRY FISCHER'S ORDER  
DATED DECEMBER 20, 2018**

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**I. JURISDICTION**

- A. Plaintiff is a citizen and resident of Pittsburgh, PA (Allegheny County)
- B. Under **28 U.S.C. § 1331**, this is a case arising under the United States Constitution or federal laws or agreements, and this is a federal question case. (Amounts exceed \$75,000.00 in SSA Trust Fund)
- C. ***Attempted Exhaustion of SSA Administrative Remedies*** for omissions of income Plaintiff made as a Public-School Teacher, for NYC Board of Education, and refusal to allow an appeal on the ALJ level, Commissioner level and now the Federal Court Level, to correct the record.
- D. SSA Administration allows a civil complaint, in Federal District Court for a review against the SSA Commissioner, as the 3<sup>rd</sup> Step in the appeal process.<sup>1</sup>
- E. Plaintiff filed a civil complaint against the SSA (now the Commissioner and possibly the Agency), on December 4, 2018.

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<sup>1</sup> See Attached SSA Documentation allowing a Federal District Court Suit against the SSA.

- F. District Court ordered Plaintiff to Amend the Complaint or face dismissal on 1/10/2019.
- G. Plaintiff is fulfilling that order to cure mistakes prior to 1/10/2019.
- H. Plaintiff still thinks that Section 205(g) of the Social Security Act, Title 42 United States Code Section 405(g) (42 U.S.C. §405(g), are relevant to jurisdiction.
- I. Privacy Act, 5 U.S.C. §552
- J. ***Weinberger v. Wiesenfeld***, 402 U.S., 420 U.S. 636(1975) ("***where administrative exhaustion is functionally impossible***") (Due Process Clause of the Fourteenth Amendment)
- K. Notwithstanding the actions of the SSA, the SSA Law/Procedure requires that, given the waiver of immunity, a suit is built into the appeal process, which gives this Court Jurisdiction for the following:

***"This section 205 has been held to require the exhaustion of available administrative procedures, to foreclose jurisdiction under the general grant of federal-question jurisdiction, 28 U.S.C. § 1331, and to route review through § 205(g). Weinberger v. Salafi, 422 U.S. 749, 757, 761 (1975)."***

- L. Violations of the 42 U.S.C. §401(a) Federal Old-Age and Survivors Insurance Trust Fund
- M. U.S.C. 28 VI Ch. 171 §2680
- N. 28 U.S.C. §1346

## **II. PARTIES**

- A. Jacquelyn B. N'Jai, Plaintiff
- B. SSA Commissioner, Defendant
- C. Social Security Administration, Defendant (?)

## **III. STATEMENT OF CLAIMS**

- A. FOIA 5 U.S.C. §552(a)(4)(B) and/or Privacy Act 5 U.S.C. §552a(g)(1)
- B. Constitutional Violations: Due Process Clause of the Fourteenth Amendment (Procedural and Substantive)
- C. Violations of the 42 U.S.C. §401(a) Federal Old-Age and Survivors Insurance Trust Fund.
- D. Federal Tort Claims Act 28 U.S.C. §2675(a)

## **IV. PROCEDURAL BACKGROUND:**

- Jacquelyn B. N'Jai, Plaintiff, 10133 Pittsburgh, PA 15232, Allegheny County, Pro Se.

1. Plaintiff, Jacquelyn B. N'Jai worked from the age of 13 (1969)-2018 and earned Social Security wages (give and take some years.
2. Plaintiff, Jacquelyn B. N'Jai worked as a *licensed* and certified public-school teacher, for the New York City Board of Education, beginning in the 1985-86 school year through 1989-1990 school years.
3. On or about 8/1989-1990, she worked for the University of Pittsburgh, WPIC's CHAMPS Program as a Developmental Advisor-within the Pittsburgh Public Schools.
4. In 1990-2001, Plaintiff worked and became a tenured Public-School Teacher for the PPS.
5. In both districts, Plaintiff paid social security and SERS/Pension too.
6. She currently, has been paying Federal taxes on her monthly pension from the PPS (PSERS).
7. From 2016-2017, Plaintiff became diligent in trying to early retire beginning at the age of 62, by checking the documentation and making sure that the documents are correct prior to her filing for benefits.
8. From 2016-2018, Plaintiff applied for corrections after seeing her earnings statement, and some unexplainable changes.
9. In 2017, or so, the SSA modified the earnings statement, but still made erroneous entries.
10. Plaintiff timely applied for a reconsideration and then appeals. She also requested written explanations/determinations., specifically as it pertains to her professional contributions.

11. Plaintiff believes that the SSA, applied the lowering standard to Plaintiff's income, to lower her monthly allowance she is eligible for.
12. Plaintiff did and had no choice but to pay both social security and a state pension for PA and New York City School Districts, some approximately 16 years combined.
13. Although she worked for the City of Pittsburgh Parks and Recreation, about years 1982-1984, the figures indicate far below possible minimum wage for some years on the earnings statement.
14. From that 1 correction and the first application for an appeal, Plaintiff got no response in writing from SSA anything about an appeal.
15. Plaintiff made an appointment to go into the SSA on 9/17/2017, to discuss the matter. Plaintiff was treated unfairly by the clerk who voiced her frustrations with having to amend the statement when she did not make the errors. The employee slammed the blinds in Plaintiff's face for Plaintiff wanting to an appeal with an ALJ.
16. Even though she filed on 7/3-6/2018, and wanted to know the status, the agent refused Plaintiff any service, or she ended the service by closing a blind of some sort, in Plaintiff's face and walking away from the window. (Monroeville Office, after 9/17/2017).
17. Plaintiff then filed another appeal seeking to have a hearing before an ALJ. She applied for an appeal and complained about the employee's actions. (The form requests Plaintiff state the employee's name).

18. Plaintiff filed an FOIA request, requesting the name of the employee and about various processes involving appeals. She did not file an appeal to get an earnings statement.
19. On 3/25/2018, Plaintiff got a reply from the Director of Hearings, and told Plaintiff she could not appeal with an ALJ, but gave her an address and place to send the appeal and complaint to.
20. Almost immediately, on 4/2/2018, Plaintiff-N'Jai filed another appeal with the Commissioner as told to her in the 3/25/2018 correspondence from the SSA.
21. The Plaintiff was made aware of the 2/28/2018 determination by the Monroeville office, when she read the 3/25<sup>1</sup>/2018 letter, as she did not even know from 2/28-3/25<sup>1</sup>/18, until then that such letter and determination even existed.
22. On or about the middle or end of April 2018 (? Not sure) , Plaintiff got a copy of the Monroeville Office's determination.
23. Plaintiff updated the appeal and tried to tack on the appeal with the same Commissioner as she was told to do by the superiors of the Monroeville's Office, on or about 6/25/2018.
24. Plaintiff waited for a response regarding her appeal, but has not heard anything from anyone at the SSA about a hearing or decision, through 12/4/2018, the day she filed this lawsuit, in Federal District Court.
25. The 3<sup>rd</sup> step of the SSA appeal process is Federal District Court.
26. Plaintiff got an Order to Amend the Complaint or face dismissal with prejudice.
27. Plaintiff is Amending the Complaint, and seeking to cure the errors.

**V. STATEMENT OF FACTS**

1. Plaintiff incorporates all relevant facts from the Original Complaint.
2. Plaintiff has attempted to appeal the decision by the SSA agent to keep errors of the earning, and not to allow any appeals.
3. Plaintiff sought to appeal the refusal of SSA to give her any FOIA requests and/or to have a hearing by SSA ALJ, and/or the final ruling of the Commissioner. (Exhaustion of Administrative Remedies)
4. She has made several attempts to appeal to an Admin. Law Judge, however, SSA have refused her any of those exhaustions of administrative remedies, without lawful, nor written reasons *why* she cannot have a hearing before an ALJ or the Commissioner, or to receive a final determination from either. (Preventing due process in SSA and Federal Court).
5. Plaintiff sent the original complaint to the Commissioner on 4/2/2018.
6. There has been no response from the Commissioner as of 12/3/2018.
7. Plaintiff filed the same original complaint (with a little modifications), in Federal District Court.
8. Now she is amending that complaint.

**VI. EVIDENCE ATTACHMENTS THAT SUPPORT FACTS**

9. See Evidence List and Evidence of SSA not allowing the exhaustion of administrative remedies pertaining to appeals and corrections of its own errors.
10. Plaintiff made 4+ Attempts to appeal to an ALJ and/or the Commissioner (*See Documentary Proof*)

11. Plaintiff made responses to SSA, for ALJ and Commissioner appeal(s). The SSA is refusing to allow an appeal, even though referred to appeal to the Commissioner at a specific address, with ATTN to: (***See Documentary Proof***)
12. There was a bad faith response/determination from Monroeville Office (that took from 7/6/2017-2/28/2018 to make, and from 2/28/2018 to 4/2018 to give Plaintiff a written copy of, after Plaintiff appealed to the Commissioner. It was retaliation and efforts to cover up the unfair actions that took place on 9/17/2017. because was compelled by ALJ Department to give copy to Plaintiff. (***See Proof***)
13. Plaintiff's followed up on Appeal to the Commissioner as told to do by the SSA ALJ Department over the Monroeville Office, after she receive a late determination claiming to have changed the Earnings Statement and then re-changing it again (***See Proof***)
14. Plaintiff waited for a determination or even a response from the Commissioner from 4/2018-about 7/2018. (***See Proof trying to get a written response via online***)
15. Plaintiff waited for a response from the Commissioner from 7/2018-11/30/2018, and again no appeal nor response. (See 28 U.S.C. §2675(a) Unlike Campbell, Plaintiff N'Jai complained or presented the issues to the SSA agency prior to December 4, 2018, suit).
16. Plaintiff filed a civil complaint against the SSA in Federal District Court as the 3rd step in the SSA Administrative Process available to her, 12/4/2018. (***Docketed @ #1***)
17. Federal District Court order allowing an amendment before 1/10/2019 or face dismissal with prejudice. (***Docketed @ #2***)

18. Plaintiff is now amending and curing her admitted defects.
19. Plaintiff will refile her FOIA requests at the address the Court stated was accurate verses where she was told to file at.
20. Plaintiff, Jacquelyn B. N’Jai will file this Amended Complaint, (requesting *leave of Court if allowed to*), for stipulation, that the Court allow her to again attempt to exhaust her SSA Administrative Remedies, with a voluntary dismissal without prejudice to refile or to continue if there is continued SSA refusal to allow any administrative remedies in writing, or at all by the Commissioner or whomever the SSA appoint.
21. Plaintiff wants to apply for retirement and receive all of her life work- and professional earnings.
22. *Plaintiff in essence seeks a non-final order to avoid estoppel, because these issues in the Amended Complaint are not resolved, nor fully adjudicated, and*
23. Plaintiff requests a right to file or to continue this 18-cv-1616 case, (if necessary), after the determination of the Commissioner depending on what transpires, if she is forced or remanded back to the SSA. If need be, Plaintiff does not give up her right to file this suit.
24. In essence she *requests a remand* to the SSA, compelling them to allow exhaustion, not a dismissal with prejudice.

## V. CAUSES OF ACTION

### COUNT 1: FOIA/PRIVACY ISSUES (Please preview the attachments/evidence list).

25. The “*SSA produced to Campbell, all the documents-some 570 pages associated with his Social Security number that the SSA could identify and retrieve.*”



26. According to this Honorable Court, FOIA requests for documents related to Plaintiff - NJai, personally are not FOIA disclosable, yet they are disclosable to her and anything that references her SS# is as well. <sup>2</sup>
27. Without the documents attached, the Court mistakenly stated that Plaintiff allegedly sent FOIA requests for an earning statement, to the wrong SSA address, and for some personal reasons.
28. Now the Court can see that Plaintiff did use the correct format, had already obtained an earnings statement that she saw was incorrect, and wanted to fix. Also, according to one FOIA request form- SSA directions (on how to file FOIA requests online), the SSA determined that it routes requests to the appropriate departments.
29. Plaintiff was even requesting that she be allowed to go elsewhere, but was only allowed to go through the Monroeville Office according to it.
30. As the Court can see, Plaintiff is requesting via FOIA a regulation/form that allow her to transfer to another SSA Office.<sup>3</sup> Also, the SSA should or could have forwarded the documents to the correct department.
31. It seems that under no circumstances does Plaintiff have a right to file any FOIA claims against any federal agency for refusing disclosable or relevant documents, when according to FOIA U.S.C. §552(a)(4)(B), there is a right to a private action. See Privacy Act, 5 U.S.C. §552a(g)(1) that stipulates a right to action against the SSA.<sup>4</sup>

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<sup>2</sup> Again, see the SSA FOIA request and the Right to Know request she sent as well.

<sup>3</sup> See Correspondence of Plaintiff, FOIA and Right To Know Requests, for policy or form to transfer to another SSA Office or Department other than Monroeville.

<sup>4</sup> See SSA Official Publication of a private right for a Federal District Court Review/lawsuit as a 3<sup>rd</sup> step regulation in the SSA appeal process.

32. The FOIA refusal to give Plaintiff documents requested, is still not moot, and also unlike as in **Campbell**, there were never any release of information to Plaintiff-N'Jai involving those requests. Since those are facts or elements for which the Court determined prima facie claims or not in the Campbell case, then the dismissal of the case for not stating a claim for which relief can be granted may possibly be cured in this instant case, in favor of Plaintiff-N'Jai, knowing she was diligently trying to get requests, so she can retire.
33. Plaintiff claims that the SSA refusal of records and refusals to timely respond, constitute negligence, and the non-responsiveness constitute a denial,
- because the SSA employee did not want plaintiff to appeal her unprofessional actions, by disallowing the appeal process and corrections according to SSA procedural rules and regulations were not being followed.

WHEREAS, *"A civil remedy is available whenever an agency "fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities of, or benefits to the individual...and consequently a determination is made which is averse to the individual."*

Plaintiff seeks whatever remedies are available to her.

**COUNT 2: EXHAUSTION OF ADMINISTRATIVE REMEDIES- (Cure)**

35. The Social Security Administration's refusal to do the following, is a relevant material fact/claim that should overcome a motion to dismiss, because:

36. **First**, Plaintiff's Earnings Statement (that is out of her control), is clearly inaccurate on its face and the Representative in the SSA determination letter received by Plaintiff in April, stated that.
37. Therefore, the SSA failed to maintain an accurate record, and then sought to refuse to correct it, or give Plaintiff a right to an appeal, should be actionable. **Second, the relevance of omitting nearly 80,000+ in income/wages lowers the amount of monthly income** Plaintiff will be able to get for the rest of her life and for her beneficiaries after she is gone.
38. This violates the Federal Old-Age and Survivors Insurance Trust Fund, which Plaintiff is qualified for at the age of 62, so she should have a right to appeal and get written and final determination decisions by the ALJ and/or the Commissioner. Plaintiff has more than just the minimum 40 points, she has 120, plus she paid both social security and pension at the same time, in two states.
39. This is notwithstanding that the New York City Board of Education charged 132.00 for salary information and gave Plaintiff proof of payments for the years, 1985-1990 to give to the SSA, and was even willing to work with the SSA, but the SSA representative interfered with that claiming, "the SSA does not contact employers." SSA refused to accept, or allow an appeal process before an ALJ or the Commissioner. <sup>5</sup>
40. **Next**, the SSA ***refused to respond in a timely fashion to most of Plaintiff's requests.***

As the representative sent a 2/2018 determination to Plaintiff after she filed for

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<sup>5</sup> See NYC Board of Education Documented proof of wages, and email stating for the SSA to contact the US government agency if it needs to. The representative claims the "SSA does not contact employers" which is not true.

another appeal with the Commissioner, in 4/2018, and when Plaintiff sought to add the untimeliness and unprofessional actions to her appeal as a follow-up, still there has been no reply, no date of a hearing, no acknowledgement whatsoever from the Commissioner up to the date and after she filed this civil complaint.

41. Plaintiff found out about the 2/28/2018 determination when the ALJ Department sent her a letter in ~~April~~ <sup>Mar 27</sup> 2018, stating it had a 2/28/2018 determination that the Monroeville Office claimed was given to Plaintiff when it was not.

42. Plaintiff brought this to the attention of the Commissioner, and then a copy was sent to her after the fact, telling her she only had 60 days from the 2/28/2018 letter to appeal. The 2/2018 determination claim, the statute of limitations expired for her to correct the record, when it was the SSA willful and intentional *inactions, actions and omissions* that caused the expirations of the statute of limitations.

43. *Also*, according to the Monroeville Representative's 2/2018 (sent 4/2018 to Plaintiff), the representative made changes in 2016, 2017, but then in retaliation for Plaintiff complaining and wanting to appeal against the SSA rep., the SSA changed the amounts back to even worse condition claiming she worked for free as a public-school teacher and/or for approximately 1,000 a year which is not even near the minimum wage. To this date Plaintiff has not been allowed an appeal.<sup>6</sup>

44. Lastly, the SSA committed acts "without basis for believing them to be lawful (or in accordance with SSA Act, Privacy Act, etc.), by blatantly disregarding Plaintiff's right to have all of her income earned showing on her earnings statements so she can

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<sup>6</sup> See evidence in the attached exhibits.

apply and then benefit from her lifelong work as insured to do. (Viable Privacy Act claim)

**WHEREAS**, there in essence was no fairness in the SSA actions toward Plaintiff, which put her in the unconstitutional position to have to file a civil complaint, as that was clearly the only remedy available to her, ~~which~~

**DEMAND:** To remand and compel a final determination regarding the step 2 appeal, or

To consider in federal court if the earnings statement violates Plaintiff's right to higher monthly/life long benefits than what has been determined using erroneous earning information.

To determine whether the "denials" are supported by the evidence, and the SSA regulations.

According to the 3d Cir., the above is/are VIABLE 5 U.S.C. §552a(g)(1) (C) claims.<sup>7</sup>

**COUNT 3: CONSTITUTIONAL DUE PROCESS/EQUAL TRUST SECURITY PROTECTIONS** (Clause of the Fourteenth Amendment

(Procedural and Substantive)

"The Due Process Clause provides that no states shall deprive any "person" of "life, liberty or property" without due process of law.

45. **Procedurally**, based upon the facts and evidence

- a. Plaintiff had no right or opportunity to participate in a hearing
- b. Plaintiff had legitimate reasons for appealing
- c. The SSA denied her a right to an appeal with the ALJ and Commissioner (Steps 1 and 2 levels), with written determinations.
- d. SSA gave no timely explanations in a written form why she could not appeal.

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<sup>7</sup> See also, 5 U.S.C. §552a(g)(4); Reinbold v. Evers, 187 F.3d 348, 361-62 (4<sup>th</sup> Cir. 1999).

- e. Plaintiff requested written basis for non-responses or determination/decisions.
- f. Plaintiff was refused FOIA/Right to Privacy Act discovery.
- g. SSA was fundamentally unfair to Plaintiff for exerting a right.
- h. Privacy issues due processes were disallowed to Plaintiff, with regards to significant funds that she paid into the trust as a professional public-school teacher.
- i. SSA refused her requested information, withheld important decisions from 2/28/2018-about 4/2018 and then required that Plaintiff re-appeal a 5 or 6<sup>th</sup> time within 60 days from 2/28/2018.
- j. SSA above (i) acts, -while knowing it would be fruitless to appeal to an ALJ, when the ALJ told her she could not appeal there, 3/25/2018.
- k. SSA strategically failed to give Plaintiff 60 days to refile the entire appeal process again at the ALJ stage, after the ALJ told her not to.
- l. In diligence, Plaintiff notified the Commissioner that she wanted to appeal that 2/28/2018 Monroeville determination, and even followed up after that to be sure.

46. The Due Process Clause stipulates, that no states shall deprive any “person” of “life, liberty or property” without due process of law.

47. **Substantively**, based upon the evidence and the facts,

- m. The earnings statement omits large sums of income, involves economic reductions in Plaintiff Old Age Trust Fund, that she will have to accept permanently, unless corrected, prior to applying and being fixed into a lesser amount.
- n. Plaintiff’s FICA payments to both social security and public-school retirement funds in the years 1985-2001, as well as the PSERS early retirement checks currently being taxed from 2002 or 2003-2019, are not being considered.
- o. SSA put “0” dollars for 1986 and/or 1987 because it refuses to address the above issues.
- p. SSA is breached its duty to base income information on accurate records and then refusing to allow Plaintiff a right to appeal that.

## **OTHER CONSTITUTIONAL FACTORS**

According to 1 Pa.Stat. and Cons. Stat. §1922,

“In ascertaining the intention of the General Assembly in the enactment of a statute the following presumptions, among others may be used:

(1) That the General Assembly does not intend a result that is absurd, impossible of execution or unreasonable.”

48. The SSA Commissioner, created an irrebuttable (refusal of appeal), presumption (that Plaintiff waited past 3 years to correct her record, while at the same time SSA IS claiming to have corrected/changed the records 2017). 2017-2018 is not 3 years, since Plaintiff got the 9/19/2017 latest alters in her Earnings statement and, the checklist and other publications tell Plaintiff/public to correct the record prior to filing for benefits.

49. To say that Plaintiff failed to exhaust her administrative remedies, while she diligently tried to do so, but she was not allowed any fair due process to exhaust the appeal and other remedies, is in Plaintiff's mind, an irrebuttable presumption (I.e. making the proof of no appeal or decision, grounds for not allowing a 3<sup>rd</sup> step review in Federal District Court as allowed by the SSA, due to Plaintiff's alleged failure to exhaust.

50. Telling Plaintiff to apply for benefits mistakenly calculated, prior to correcting the miscalculations, would be fatally unconstitutional, in that the SSA will force Plaintiff into accepting lower or forfeiting her monthly income AND her FICA considerations for paying double retirement plans.

**WHEREAS**, Plaintiff has/is being denied due process and other constitutionally allowed rights, with regards to the ALJ and Commissioner's determinations, then she wants to proceed with Federal Court Jurisdiction with this viable action.

**COUNT 4: Federal Tort Claims Act (FTCA), 28 U.S.C. §2675(a); Title 28 of the U.S.C. §1346(b); § 1402(b), 2401(b), and §§2671-2680**

“The FTCA provides a limited waiver of the federal government's sovereign immunity when it's employees are negligent within the scope of their employment.”

The FTCA allows suit against a federal agency like the SSA and federal employees like Jane Doe in this case who orchestrated the wrongful acts, .

51. Analogist to how the SSA Act waives it's right to immunity in the appeal steps, Plaintiff is applying the FTCA waive of rights as well.
52. The SSA agent was negligent when she did not process Plaintiff's appeals, made inaccurate changes to the earnings statement, and then made a determination in February and did not send Plaintiff a copy until late or mid-April, after she was on step 2, prior to the district court review.
53. Plaintiff sent a civil complaint (an administrative claim(s), to the Commissioner as an administrative claim, on 4/2/2018.  
(see memo's)
54. 60 days passed and Plaintiff did not hear from the Commissioner.
55. Plaintiff sought further exhaustions, but was unsuccessful.
56. Plaintiff did not file the complaint in Federal District Court until 12/4/2018, some 8 months later.
57. Plaintiff is being denied the full amount of the trust she is eligible for at age 62, prior to her applying, because a determination to allow errors on the Earnings Statement have already been denied.
58. Plaintiff will lose her civil service FICA credits, as well since she paid into both social securities, NYS Bd of Ed Retirement Funds and PSERS, based upon the information put onto her earnings statement by SSA.
59. Plaintiff is not sure that she needs either the ALJ or Commissioners' final determination(s) in order to go to step 3 in the SSA appeal process, because she is being refused that remedy, and it may be fruitless without intervention.
60. If Plaintiff applies for SSA Retirement benefits according to the incorrect documents, then she will lose over 80,000+ in salary to be added onto her current life's work.



61. The SSA Trust Fund that was set up for her when she retires, will be changed to her disadvantage, without any due process or fair process to prevent that.
62. Plaintiff has filed the complaint within 1 -2 years, after realizing that she was not going to get any more remedies from SSA.
63. All SSA staff were acting in the scope of their employment with the SSA.
64. Plaintiff has replaced the SSA with the name of the SSA employee.

**WHEREAS**, Plaintiff included facts that a federal employee violated her rights and was negligent, significant damages (monetary and property) will be lost throughout her and her beneficiaries' lives, she has filed the same complaint as she has filed in the District court (with a few modifications), and she waited for six-month response.

**WHEREAS**, Plaintiff has already (prior to applying), suffered property/monetary losses that is "caused by the negligent or wrongful acts or omission of any employee of the Government," because it has already been determined that she will only get a lower amount of life-long benefits when she applies. *(28 U.S.C. §1346(b))*

**DEMAND:** Plaintiff seeks whatever remedies are available to her, including compensatory if any, declarative, equitable or injunctive relief, that she paid into from her lifelong work.

## **VII. DAMAGES**

At this time, Plaintiff is not and was not seeking *monetary damages from the SSA except in the amounts of her full benefits that she qualifies for*. She is was/seeking FOIA information (all information that involves her SS#), an injunctive or some kind of declaratory or equitable

relief, to compel the SSA to respond and a right to allow her the ***3-prong due process (SSA appeal/review)***, as stipulated in the SSA Act, including a final determination by a Commissioner, and/or a civil complaint filed in the Federal District Court in the jurisdiction where she lives.

Plaintiff demands all of her earnings be correctly added to her earnings statement, because the **-80,000.00** or more omitted in earnings lower the monthly income available to her, as an early or regular retiree, for the state of Pennsylvania, New York and for the City of Pittsburgh Parks and Recreation. This refusal is preventing Plaintiff from filing for early retirement, when she is in dire need to do so, ASAP.

#### **VIII. CONCLUSION/DISCUSSION**

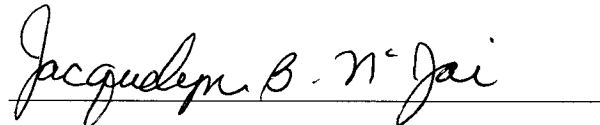
Plaintiff was diligent in seeking to exhaust her SSA administrative remedies, and evidence she submitted confirms that. She was being treated unfairly and negligently being denied any and/or inadequate due process or administrative remedies by the SSA Administration. Plaintiff is powerless to enforce or compel the SSA to fulfill its duties, and pre-maturely applying for SSA Insurance, for far less than what has been deducted from her paychecks/salary from 1964-2019, will not cure the problem she is having with the SSA as suggested by the Court.

For the SSA to negligently cause deadline limitations to come and go without action and then penalize Plaintiff for the limitations ending, are malicious and should be a claim for which relief can be granted, even if this is not an application for disability, or SSI.

Plaintiff 's PA State- life work, that had involuntary deductions from her paychecks to get Social Security payments that are reflective of that life's work and taxation, cannot be realized or gotten without a lawsuit.

If the Court is ordering Plaintiff to go back to the SSA, for further exhaustions of administrative remedies, (which Plaintiff knows she will have to do), then Plaintiff asks the court to please remand it there for further action, verses a dismissal with prejudice, as she has attempted to cure all of the errors she made in the original complaint as she was required to do (that she is aware of). If there is a good faith effort on the part of the SSA to follow the appeal process or at least write a good faith report on why or why the current errors and denials of the FOIA documents, etc., should stand, then Plaintiff will be able to continue this complaint or even maybe voluntarily dismiss the complaint if need be, depending on what results from further SSA remedies.

Respectfully Submitted,

  
Jacquelyn B. N'Jai, Pro Se

1/4/19

*ATTACHMENTS*

*CC: SSA/extra copy*